



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 553.04.172/224

CONVERSION DATE: July 1, 1998

TAXABILITY OF OIL AND CHEMICAL SPILL CLEANUP

Issued July 31, 1991

This ETB is a clarification of the Department's position regarding the cleanup of oil spills and other chemicals. This excise tax bulletin will be applied prospectively. Because of past confusion regarding the taxability of these cleanup charges, the tax reporting category used by the taxpayer will be accepted for periods prior to the issuance of this bulletin.

Under RCW 82.04.050, "retail sale" includes services in respect to the cleaning of personal property and of existing buildings and structures. Oil or other chemical spill cleanup does not come within that definition since the cleanup is generally on bare land or water. Because this activity is not included within the definition of a retail sale, it is taxable under the service b&o tax classification under RCW 82.04.290, whether the activity is performed on land or water. Contractors are not required or permitted to report partly under service and partly under retailing. The service taxable activities include skimming oil off the water, using absorbents to remove oil from land or water, pumping oily water from a vessel and disposing of the waste water, cleaning contaminated fowl or mammals, high pressure washing of the land, moving contaminated soil, and other related activities. These activities are all directly related to the primary activity of cleanup.

Some additional services which may be associated less directly with the cleanup activities are also taxable under the service b&o tax classification. This includes, among others, mere consulting services, training services, placing booms around vessels as a precaution, and receiving of a "retainer" by a contractor in order to assure that the contractor or the equipment is available for immediate action if a spill occurs.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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CONSUMABLES AND EQUIPMENT

Cleanup Contractors are required to pay retail sales tax to their suppliers for purchases of consumable supplies which are used in cleanup activities. This includes items such as absorbents, chemicals used to disperse the oil, rags, detergents, etc. Contractors are also required to pay retail sales tax on their purchases of any equipment, including the rental of equipment for use by the contractor's employees.

EFFECTIVE DATE

Tax reporting under either the service b&o classification or retailing b&o and retail sales classifications for past periods will not be disturbed. The Department will not assess tax deficiencies, require amended tax returns, or adjust tax payments for periods before August 1, 1991.